

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISIONFORT WORTH, TEXAS  
APR 3 2009

APR - 2 2009

CLERK, U.S. DISTRICT COURT

By \_\_\_\_\_ Deputy

GRALIN D. VINNING,

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VS.

NO. 4:08-CV-059-A

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY,

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Defendant.

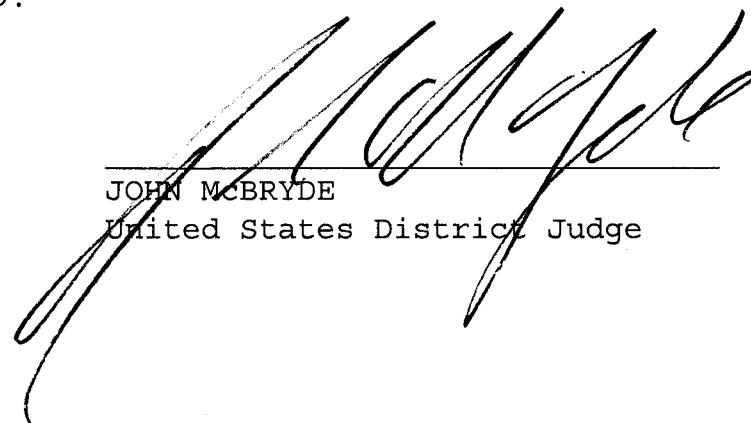
O R D E R

Came on for consideration the above-captioned action wherein Gralin D. Vinning is plaintiff and Michael J. Astrue, Commissioner of Social Security, is defendant. This is an action for judicial review of a final decision of the Commissioner denying plaintiff's claim for disability insurance benefits under Title II, and supplemental security income under Title XVI, of the Social Security Act. On March 10, 2009, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation and granted the parties until March 31, 2009, to file and serve objections. Because timely objections have not been filed, the court accepts the proposed findings, conclusions, and recommendation of the United States Magistrate Judge.

Therefore,

The court ORDERS that the final decision of the Commissioner be, and is hereby, reversed, and that plaintiff's claim be, and is hereby, remanded to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g).<sup>1</sup>

SIGNED April 2, 2009.

  
JOHN McBRYDE  
United States District Judge

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<sup>1</sup>As explained by the Supreme Court, a remand pursuant to sentence six of § 405(g) may be ordered only where the Commissioner "requests a remand before answering the complaint, or where new, material evidence is adduced that was for good cause not presented before the agency." Shalala v. Schaefer, 509 U.S. 292, 297 n.2 (1993). Neither of those circumstances is before the court in this action.